

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 2687 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PATEL MAFATLAL SHIVRAM

Versus

STATE OF GUJARAT

Appearance:

MR PK JANI for Petitioners
PUBLIC PROSECUTOR for Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 23/12/98

ORAL JUDGEMENT

Mr.P.K. Jani, learned counsel appearing for the petitioner is not present. Heard the learned A.P.P. Ms. Valikarimwala for the State. Respondent No.2, though served, is not represented before the Court.

The applicants before this court are the accused in a complaint lodged before the Visnagar Police Station and registered as C.R. No. I- 218/98, respondent No.2 being the complainant.

2. The accused applicant No.4 is the daughter of the complainant. The allegation against the applicants accused is in respect of an offence punishable under sections 380 and 114 of I.P.C. The allegation is that on 16th June, 1998 wife of the complainant and accused No.4 had gone to field for collecting 'Rajko' (cattle feed). The accused Nos. 1,2 and 3 had approached the accused No.4 at the field while she was collecting Rajko. After having talked to accused Nos.2 and 3 the accused No.4 went to her home and did not return for a long time. Wife of the complainant, therefore, went home and inquired about accused No.4. She was told by her neighbour that accused No.4 had gone away along with accused Nos. 2 and 3. On further inquiry it was found that a sum of Rs.700/- and silver ornaments worth Rs.600/- which were lying in the house in a cupboard were missing. It is, therefore, alleged that the accused have committed offence under sections 380 and 114 of I.P.C. Feeling aggrieved the accused have preferred the present application and seek to quash the complaint lodged against them.

3. It is contended that the accused No.4 has married the accused No.2 on 16th April, 1998 and thus she is the lawfully wedded wife of accused No.2. Accused Nos.2 and 4 were betrothed to each other while they were minor with the consent of their parents. However, the complainant wanted to back out of the said betrothal and was not willing to marry accused No.4 to the accused No.2 and, therefore, the accused No.4 had to marry accused No.2 against the wishes of her parent - the complainant. It is denied that either of the accused has stolen the cash and jewelry as alleged.

4. The facts stated in the application are supported by the marriage certificate dated 16th April, 1998 and the said facts are not denied by respondent No.2 herein. In view of the uncontroverted facts stated in the application, the complaint does appear to be false and vexatious. The same, therefore, requires to be quashed and set aside.

5. The petition is, therefore, allowed. The complaint registered as C.R.No. I- 218/98 in the Visnagar Police Station is hereby quashed and set aside. Rule is made absolute accordingly. There shall be no order as to costs.

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